

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

ROBERT LEROY BENAVIDEZ, JR. (2)

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Case No. 4:04cr102
(Judge Schneider)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 22, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Maureen Smith.

On May 25, 2005, Defendant was sentenced by the Honorable Michael H. Schneider to fifty-four (54) months' custody followed by four (4) years of supervised release for the offense of Conspiracy to Distribute or Dispense or Possess with Intent to Distribute or Dispense Methamphetamine. On October 22, 2008, Defendant completed his period of imprisonment and began service of his supervised term.

On May 4, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated several mandatory and standard conditions. Violation allegations one, two, and three were dismissed by the Government. The petition also alleged violation of the following additional standard condition: the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.

The petition alleges that Defendant committed the following acts with regard to the

remaining violation: The Defendant failed to report his April 17, 2011, arrest for Manual Delivery of a Controlled Substance to his U.S. Probation Officer.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violation.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fifteen (15) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 23rd day of November, 2011.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE